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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,439

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Marco Ghini

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EXAMINER

BYRD, LATRICE CHENELL

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

10/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,439

Applicant(s)

GHINI ET AL.

Examiner

LATRICE BYRD

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/22/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36, 39-57, 59-68 and 70-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 39-57, 59-68 and 70-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the shaped side wall of claim 51 comprising a first convex portion with convexity turned towards the inside and a second concave portion with concavity turned towards the inside while meeting the limitation of claim 36, "a stiffening wall extending between said first edge and said second edge..." must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 51 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, nor do the drawings convey how the shaped side wall of claim 51 comprises a first convex portion with convexity turned towards the inside and a second concave portion with concavity turned towards the inside while meeting the limitation of claim 36, "a stiffening wall extending between said first edge and said second edge...". Figure 7 shows a first convex portion with convexity turned towards the inside of the container and a second concave portion with concavity turned towards the inside of the container, however, it does not illustrate a stiffening wall that extends between a first edge and second edge of the container. Therefore, it is not described in the specification or illustrated in the drawing how the limitations of both independent claim 36 and claim 51 are met.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 51 and 59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 51 recites "said shaped side wall comprises a first convex portion with convexity turned towards the inside ... and a second concave portion with concavity turned towards the inside. However, it is not understood how this limitation can be met while having "a stiffening wall extending between said first edge and said second edge..." as claimed 36 from which claim 51 depends as described above.
7. Claim 59 recites "a length substantially the same as a further length of said greater panel". However, it is not understood which greater panel is being referred to (the first greater panel or the second greater panel).

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 36, 39-45, 49, 52-53, and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by Rous USPN (USPN 3,722,783).
10. In re claim 36, Rous discloses a container delimited by a wall arrangement comprising a front wall (10), a rear wall (12) and a pair of shaped side walls (14,16) that

protrudes towards the exterior of said container, each shaped side wall being connected to said front wall along a first edge, and to said rear wall along a second edge, each shaped side wall comprising an outer shaped panel (16) attached to an inner shaped panel (14), said container comprising a stiffening element (22) arranged to stiffen said shaped side, wherein said stiffening element comprises a substantially flat stiffening wall extending between said first edge and said second edge and spaced from the corresponding shaped side wall.

11. In re claim 39, Rous discloses a container wherein said stiffening wall has a length substantially the same as a longitudinal dimension of said shaped side wall, said length and said longitudinal dimension being measured parallel to said first edge.

12. In re claim 40, Rous discloses a container comprising an anchoring element (16B) arranged to anchor said stiffening wall to a supporting wall (12) adjacent to said shaped side wall.

13. In re claim 41, Rous discloses a container wherein said anchoring element comprises an anchoring wall adjacent to said shaped side wall.

14. In re claim 42, Rous discloses a container wherein said anchoring wall has a longitudinal extent measured parallel to said first edge substantially the same as said length of said stiffening wall.

15. In re claim 43, Rous discloses a container wherein said anchoring wall has a substantially flat shape and is fixed to a flat portion of said supporting wall.

16. In re claim 44, Rous discloses a container wherein said anchoring wall is glued to said supporting wall.

17. In re claim 45, Rous discloses a container wherein said anchoring wall is rotated by approximately 90° in relation to said stiffening wall.

18. In re claim 49, Rous discloses a container wherein each shaped side wall comprises a first flat wall and a second flat wall that intersect each other along a common edge.

19. In re claim 52, Rous discloses a container wherein said wall arrangement comprises a side wall arrangement of a stiff packet with a hinged lid capable of containing cigarettes.

20. In re claim 53, Rous discloses a container wherein said wall arrangement comprises a substantially flat front wall and a substantially flat rear wall.

21. In re claim 72, Rous discloses a container further comprising a gap between each shaped side wall and its corresponding stiffening wall.

22. Claims 54-57 and 59-70 are rejected under 35 U.S.C. 102(b) as being anticipated by Draghetti (USPN 6,484,930 B1).

23. In re claim 54, Draghetti discloses a foldable blank for forming a container, comprising a first greater panel (7b'), a second greater panel (6b'), external panels (62) provided at opposite sides of said second greater panel, a longitudinal panel (56) and a further longitudinal panel (56) respectively arranged on opposite sides of said first greater panel parallel to said first greater panel, a pair of longitudinal strips (61) each having a longitudinal side in common respectively with said longitudinal panel or with said further longitudinal panel, wherein said longitudinal panel and said further longitudinal panel are each subdivided into a first zone (shades area) having a side in

common with said first greater panel and a second zone (non-shaded area) having a side in common with the corresponding longitudinal strip, a first longitudinal crease of a multiple of longitudinal creases separating said first zone from said second zone, a second longitudinal crease (39,40) separating said longitudinal strip from said second.

24. In re claim 55, Draghetti discloses a foldable blank wherein said first zone has a transverse extent greater than a further transverse extent of said second zone, said transverse extent and said further transverse extent being measured perpendicular to an axis along which said longitudinal panel extends.

25. In re claim 56, Draghetti discloses a foldable blank wherein said first greater panel is interposed between a first transverse panel and a second transverse panel lying on opposite sides of said first greater panel along said axis.

26. In re claim 57, Draghetti discloses a foldable blank wherein said first transverse panel (10') and said second transverse panel (11') extend parallel to said axis by a quantity substantially corresponding to said further transverse extent of said second zone.

27. In re claim 59, Draghetti discloses a foldable blank wherein said first zone extends parallel to said first longitudinal crease for a length substantially the same as a further length of said greater panel along said first longitudinal crease.

28. In re claim 60, Draghetti discloses a foldable blank wherein said longitudinal crease is substantially parallel to said first longitudinal crease.

29. In re claim 61, Draghetti discloses a foldable blank wherein said longitudinal strip has a longitudinal extent measured parallel to said second longitudinal crease substantially equal to said length of said second zone.

30. In re claim 62, Draghetti discloses a foldable blank wherein said longitudinal strip is trapezium-shaped, said second longitudinal crease defining a larger base of said trapezium.

31. In re claim 63, Draghetti discloses a foldable blank wherein said first zone is provided with a cutting line along 47 that extends through said first zone in a tilted direction in relation to said first longitudinal crease.

32. In re claim 64, Draghetti discloses a foldable blank wherein said second zone is provided with a further cutting line along 47 that extends through said second zone in a direction tilted in a specular manner in relation to said cutting line with respect to said first longitudinal crease.

33. In re claim 65, Draghetti discloses a foldable blank wherein said cutting line and said further cutting line are provided with joints.

34. In re claim 66, Draghetti discloses a foldable blank wherein said first zone is provided with a plurality of creases parallel to one another arranged to give said first zone a certain yieldability, such that said first zone has the capability of taking on a concave configuration when folded.

35. In re claim 67, Draghetti discloses a foldable blank wherein said first zone is provided with a first bundle of multiple creases in the first longitudinal panel and a

second bundle of multiple creases in the further longitudinal panel arranged at the borders of a central region (52) without creases.

36. In re claim 68, Draghetti discloses a foldable blank wherein said first zone is provided with an intermediate longitudinal crease equidistant from the longitudinal borders of said first zone.

37. In re claim 70, Draghetti discloses a foldable blank defining a die-cut cardboard for packets for cigarettes.

Claim Rejections - 35 USC § 103

38. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

39. Claims 46-48 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rous USPN (USPN 3,722,783) in view Evans (USPN 2,028,276).

40. In re claim 46-48 and 71, Rous discloses the claimed invention except the shaped side wall comprising a convex wall that has a semi-cylindrical surface that extends around an axis substantially passing through said stiffening wall. However, Evans teaches a container having a shaped side wall (3) comprising a convex wall that has a semi-cylindrical surface that extends around an axis substantially passing through said stiffening wall (4). It would have been obvious to one of ordinary skill in the art to have changed the shape of the shaped side wall of Rous to include a convex wall as

taught by Rous in order to give the an ornamental appearance to the likes of the consumer.

41. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rous USPN (USPN 3,722,783) and Evans (USPN 2,028,276) as applied to claim 71 above, and further in view Rhodes (USPN 1,645,403).

42. In re claim 50, Rous discloses the claimed invention except the shaped side wall comprising a substantially flat intermediate portion and convex peripheral portions. Rhodes illustrates a shaped side wall comprising a substantially flat intermediate portion (10) and convex peripheral portions (5a,5b). It would have been obvious to one of ordinary skill in the art to have further modified the shaped side wall of Rous with a substantially flat intermediate portion and convex peripheral portions as a mere change in shape.

Response to Arguments

43. Applicant's arguments with respect to claims 36 and 54 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

44. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LATRICE BYRD whose telephone number is (571)270-5703. The examiner can normally be reached on Mon-Thu 9:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LATRICE BYRD/
Examiner, Art Unit 3782

/Gary E. Elkins/
Primary Examiner, Art Unit 3782